

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

RAYMOND MONTEZELLO,

Plaintiff,

v.

PESCE, et al.,

Defendants.

No. 2:21-cv-00906-DJC-EFB (PC)

FINDINGS AND RECOMMENDATIONS

Plaintiff is a state prisoner proceeding without counsel in an action brought pursuant to 42 U.S.C. § 1983. The matter is ready to proceed to trial. Plaintiff has filed a motion “to e-file a shareholder’s derivative action.” ECF No. 71. Such an action is “an extraordinary process where courts permit a shareholder to step into the corporation’s shoes and to seek in its right the restitution he could not demand in his own.” *Quinn v. Anvil Corp.*, 620 F.3d 1005, 1012 (9th Cir. 2010) (internal quotation marks omitted). Plaintiff herein proceeds against three correctional officers. From the motion, it appears that the “corporation” plaintiff seeks to represent is the California Department of Corrections and Rehabilitation. However, this entity is not a corporation, but rather an agency of the state of California. Accordingly, plaintiff’s attempt to add a shareholder’s derivative action to the current litigation is inapt and must be denied.

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1 It is therefore RECOMMENDED that:

- 2 1. Plaintiff's October 24, 2025 motion (ECF No. 71) be DENIED; and
- 3 2. Plaintiff's October 31, 2025 notice of shareholder's derivative action (ECF No.
- 4 72) be STRICKEN from the docket.

5 These findings and recommendations are submitted to the United States District Judge

6 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days

7 after being served with these findings and recommendations, any party may file written

8 objections with the court and serve a copy on all parties. Such a document should be captioned

9 "Objections to Magistrate Judge's Findings and Recommendations." Failure to file objections

10 within the specified time may waive the right to appeal the District Court's order. *Turner v.*

11 *Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

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13 Dated: November 19, 2025

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EDMUND F. BRENNAN
UNITED STATES MAGISTRATE JUDGE

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